

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

NICHOLAS V.

Claimant,

vs.

VALLEY MOUNTAIN REGIONAL  
CENTER,

Service Agency.

OAH No. 2009090021

**DECISION**

This matter was heard before Administrative Law Judge Elaine H. Talley, Office of Administrative Hearings, State of California, in Stockton, California, on September 28 and 29, 2010.

Claimant was represented by attorneys Tho Vinh Banh and Jonathan Elson, of Disability Rights California.

The service agency, Valley Mountain Regional Center (VMRC), was represented by Barbara Johnson, Psy.D., VMRC Clinical Psychologist.

Oral and documentary evidence was received. At the conclusion of the hearing, the record remained open for parties to submit closing briefs. The briefs were received October 14, 2010 and marked for identification as claimant's Exhibit MM and Respondent's Exhibit 28. The record was closed and the matter was submitted for decision.

**ISSUE**

Is claimant eligible for regional center services because he suffers from a disabling condition found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation pursuant to Welfare and Institutions Code section 4512, subdivision (a), and California Code of Regulations, title 17, section 54000?

## FACTUAL FINDINGS

1. Claimant is a 17-year-old young man, born June 21, 1993, who lives with his parents and attends a special education program in his local school district.

2. Claimant contends he is eligible for regional center services under the, so called, fifth category of eligibility. He contends that he has a disabling condition that is closely related to mental retardation or that he has a disabling condition that requires treatment similar to that required for individuals with mental retardation. (Welfare and Institutions Code, section 4512, subdivision (a)).

3. VMRC contends claimant is not eligible for services.

4. Claimant applied for regional center services in May of 2009. A VMRC eligibility assessment team found that he was not developmentally disabled, as defined by the Lanterman Act, and, therefore, not eligible for services. VMRC notified claimant that he was not eligible. Claimant's father completed a Fair Hearing Request (FHR) on August 27, 2009, which was received by VMRC on August 28, 2009, appealing VMRC's decision on eligibility. OAH set the hearing for December 2, 2009. Parties mutually requested continuances, claimant executed a waiver of time line set by law and the matter was eventually scheduled for hearing September 28 and 29, 2010.

### *Psychological Evaluations and Testimony*

5. Claimant has been psychologically evaluated several times. In November 2009, Gary L. Westcott, Ph.D., Clinical Psychologist, evaluated claimant at the request of VMRC. The purpose of the evaluation was to rule out an autism spectrum disorder and to develop treatment recommendations for claimant. Dr. Westcott did not have an opportunity to review records or reports from previous testing or any school records. He interviewed claimant's father and tested claimant. Dr. Westcott's assessment found that claimant does not meet the criteria for autism. Dr. Westcott also administered tests that assessed claimant's intelligence, academic achievement, and adaptive functioning, in addition to testing for a possible autism diagnosis. The Wechsler Adult Intelligence Scale – 4<sup>th</sup> Edition (WAIS4) is a full range intelligence test. Claimant's scores on the WAIS4 were:

<b><u>Scales</u></b>	<b><u>Standard Scores</u></b>
Verbal Comprehension Index	70
Perceptual Reasoning Index	94
Working Memory Index	66
Processing Speed Index	71
Full Scale IQ	72

Dr. Westcott noted that the Full Scale IQ score fell within the borderline range, at 72, but was misleading, and that it was not possible to estimate claimant's IQ. He found that whenever language was involved in the testing, claimant performed significantly poorer than he

did on tests that did not require the use of language. Dr. Westcott found that claimant has a mixed receptive/expressive language disorder, and not borderline intellectual functioning.

To assess claimant's academic abilities, Dr. Westcott administered the Wide Range Achievement Test -4 Word Reading and Mathematics subtests (WRAT 4) and found that claimant received very low scores. His word reading standard score was 55, which is at the K.9 (kindergarten, ninth month) level. His math computation score was better, but also very low at a scaled score of 67 and a grade equivalency of 2.9 (second grade, ninth month). He testified that the typical school program will not be productive for claimant and that the emphasis of claimant's school program should be vocational.

Claimant's adaptive abilities were evaluated by Dr. Westcott by having claimant's father respond to the Vineland Adaptive Behavior Scales – 2<sup>nd</sup> Edition (Vineland 2). Dr. Westcott reported:

Overall, the scores are quite low and point to a young man who is having considerable difficulty developing the skills for full independent functioning in life. Given the apparent depth of his difficulties with language processing, verbal memory, and academic functioning, this is likely not surprising. Based on the Vineland, there are marked difficulties of life functioning.

<b>Scales</b>	<b>Standard Scores (Domain) and V-Scores (scale)</b>
<b>Communication Domain</b>	<b>64</b>
Receptive	8
Expressive	9
Written	8
<b>Daily Living Skills</b>	<b>68</b>
Personal	7
Domestic	11
Community	10
<b>Socialization</b>	<b>70</b>
Interpersonal Relations	9
Play and Leisure Time	10
Coping Skills	10
<b>Adaptive Behavior Composite</b>	<b>65</b>

Dr. Westcott's report concluded that claimant has a severe Mixed Receptive/Expressive Language Disorder as well as severe Reading and Mathematics Disorders, and he does not have autism. He recommends that claimant's school program target heavily the development of practical life skills.

Dr. Westcott recommends that his report be shared with claimant's IEP team, and that his school program be:

...targeted heavily at development of practical life skills and vocational development in areas such as construction, mechanics, etc. He will definitely need specific training and assistance in these areas to allow for eventual independent life functioning. Additional focus on standard curriculum is likely to not be fruitful and in many ways, takes time away from developing more critical life and vocational skills that he so needs.

Dr. Westcott testified at the hearing that he does not believe claimant falls within the “fifth category” for regional center eligibility because he believes claimant’s primary disability is his Mixed Receptive/Expressive Language Disorder and not low cognitive functioning. Dr. Westcott believes claimant will be handicapped for the rest of his life but that he can be trained to do physical work in such areas as landscaping or construction, however, he will need help because, for example, he will not be able to read the plans that are used on construction sites.

Dr. Westcott testified that he does not believe claimant as a Cognitive Disorder Not Otherwise Specified because, in order to have that diagnosis, a person must have a general medical condition creating a cognitive disorder and he was not aware of claimant having any medical condition impacting his cognitive functioning.

6. Howard J. Glidden, Ph.D., Developmental Neuropsychologist, evaluated claimant in June of 2010. Dr. Glidden has a private practice and testified that he is familiar with regional center eligibility as he often does assessments for the Central Valley Regional Center. Dr. Glidden’s report indicates that he administered over fifteen different tests, reviewed all available information from prior assessments and medical reports dating back to claimant’s birth. He also interviewed claimant’s mother and obtained a questionnaire from claimant’s teacher. He concludes that claimant should be found eligible for regional center services based on the “fifth category.”

Dr. Glidden tested claimant’s attention and found his verbal performance was in the “extremely low range” on the Digit Span subtest of the WAIS4. His visual performance was in the “borderline” range on the Spatial Span test of the Weschsler Memory Scale III. This test measures visual-spatial attention and working memory. Dr. Glidden opined that claimant has deficits in the area of attention and that these deficits cannot be explained solely by a diagnosis of Mixed Receptive/Expressive Language Disorder or a learning disability.

Perception was measured using the Test of Auditory Processing Skills 3 for auditory-verbal perception and the Test of Visual Perceptual Skills 3 for visual-spatial perception. Claimant’s scores on the Test of Auditory Processing Skills 3 were quite low, while some of his subtest scores on the Test of Visual Perceptual Skills 3 fell within the average range.

### **Test of Auditory Processing Skills-3**

	Scaled Score	Percentile	Range
Word Discrimination	5	5	Borderline
Phonological Segmentation	<1	<1	Extremely Low

### Test of Visual Perceptual Skills-3

	Scaled Score	Standard Score	%tile	Range
Basic Processes		75	5	Borderline
Visual Discrimination	1		0.1	Extremely Low
Visual Memory	8		25	Average
Spatial Relations	0		<0.1	Extremely Low
Form Constancy	11		63	Average
Complex Processes		88	21	Low Average
Figure Ground	7		16	Low Average
Visual Closure	8		25	Average

The tests Dr. Glidden administered to assess claimant's language functioning confirmed that claimant has language processing issues. When Dr. Glidden tested claimant's receptive language skills, he scored in the low average range on the Peabody Picture Vocabulary Test, and in the impaired range on the Token Test. Dr. Glidden measured claimant's expressive language abilities using the Expressive Vocabulary Test 2, the Controlled Word Association Test, and the Animal Naming Test. His scores on these three tests were in the extremely low range, the impaired range, and the average range, respectively.

Dr. Glidden did not assess claimant's academic skills. He did, however, reference academic testing completed by claimant's special education teacher on September 4, 2009. That testing found claimant to be below the first percentile ranking in almost all academic areas. Scores in the first percentile place a person below ninety-nine percent of the population. Dr. Glidden noted testing, "...reveals significant global academic delay," and that claimant, "...is having significant difficulty in academic skill set attainment across all domains."

Adaptive Functioning was assessed by having claimant's mother complete the Adaptive Behavior Assessment System II. This test resulted in a General Adaptive Composite score of 51. A score of 51 places claimant in the extremely low range and at the 0.1 percentile, a score lower than ninety-nine point nine percent of the population.

Dr. Glidden diagnosed claimant as having Cognitive Disorder Not Otherwise Specified (NOS). Cognitive Disorder NOS is defined in the American Psychiatric Association's Diagnostic and Statistical Manual, fourth edition, Text Revision, (DSM IV-TR):

This category is for disorders that are characterized by cognitive dysfunction presumed to be due to the direct physiological effect of a general medical condition that do not meet criteria for any of the specific deliriums, dementias, or amnesic disorders listed in this section and that are not better classified as Delirium Not Otherwise Specified, Dementia Not Otherwise Specified, or Amnesic Disorder Not Otherwise Specified. For cognitive dysfunction due to a specific or unknown substance, the specific Substance-Related Disorder Not Otherwise Specified category should be used. (DSM IV-TR, p. 179-180).

Dr. Glidden speculated that there may be some general medical condition underlying claimant's challenges, but he does not have evidence of that underlying condition. Although his report references claimant's history of scarlet fever at age two and an orbital laceration at age four, he did not speculate on whether either of those had an impact on claimant's current functioning. He stated that brain imaging technology has not developed to the point at which a person's learning challenges can be seen using brain imaging.

Dr. Glidden opined that claimant's cognitive and learning challenges are not solely caused by a Mixed Receptive-Expressive Language Disorder. He relied on his finding that claimant exhibited difficulty with verbal and nonverbal attention, speed of information processing, visual perceptual challenges, and impaired list of learning of commonly used words. He opined that a person who suffered only from a Mixed Receptive-Expressive Language Disorder would not exhibit the complex challenges claimant exhibits. Dr. Glidden found that claimant has significant challenges in the areas of communication skills, learning abilities, self-care, self-direction, independent living skills, and economic self-sufficiency.

Dr. Glidden's report states:

It is my opinion (claimant's) cognitive/learning challenges are not captured solely on the basis of the diagnosis Mixed Receptive-Expressive Language Disorder. The assessments that have been conducted to date were limited in scope and breadth, and did not assess (claimant's) ability to discriminate verbal and nonverbal information, encode, store and retrieve novel information, or assess his ability to learn language based information through rehearsal. Individuals solely with Mixed Receptive-Expressive Language Disorder do not, by definition, exhibit difficulty with verbal and nonverbal attention, speed of information processing, visual-spatial perceptual challenges, or impaired list learning of commonly used words.

7. Some of the recommendations Dr. Glidden makes are:

Because of identified language processing disability, the following suggestions are advanced in order to minimize miscommunications:

Slow down the rate of speech and talk in simple, positively phrased statements. Do not use slang or unusual forms of speech, and make eye contact so that (claimant) can utilize available gestural cues.

When conveying important information, have (claimant) repeat back, in his own words, to assure his understanding.

Whenever possible, reduce or eliminate outside sounds or noises, as these will be distracting to his communication.

Be prepared to use a lot of gestural content in conversation.

Because of the attentional limitations (claimant) demonstrates, he will benefit from increased structure and consistency. Some suggestions for helping him to circumvent attentional limitations in the classroom are as follows:

Attempts should be made to have (claimant's) daily routine be as consistent as possible.

...Individual instruction or instruction in small groups should be provided as much as possible.

Teachers should make sure they have (his) attention prior to beginning instruction...

Assignments should be broken down into small segments...

Provide (claimant) with visual and graphic organizers...

Highlight key words and directions...

When available, utilize short segment test booklets.

Allow for multiple or frequent breaks

Due to the cognitive and developmental limitations identified, it will be very important to take into consideration Nicholas' developmental, social, and academic histories when determining the most appropriate strategy for assisting him to develop pro-social behaviors. Some suggestions include:

Fostering independence in self-help and play.

Giving him choices and encouraging decision-making.

Focusing on teaching daily living skills.

Because of (claimant's) slow rate of information processing, accommodations in the classroom designed to allow (him) to demonstrate academic proficiency in a briefer period of time will be important.

Because of the challenges with working memory, the following recommendations are advanced:

...providing information in "small bits."

(Claimant) will benefit from rehearsal strategies...to help enhance working memory.

*Testimony regarding claimant's ability to function and his adaptive skills*

8. Claimant's father is very concerned about claimant's ability to function. He testified that claimant does not have the self-help skills that would be appropriate for a person of claimant's age. For example, claimant is not able to use an alarm clock, although his parents have tried on several occasions to teach him how to use one. He does not dress appropriately for the weather. He may wear shorts when it is snowing and long pants when the temperature is over one hundred degrees. He is unable to pack appropriate clothing for family vacations. He rides a bus to get to and from school, and has exited the bus at the wrong school in the past. Claimant needs daily reminders about what he needs to bring to school and has trouble remembering his school schedule.

Claimant's father expressed concerns about claimant's safety in the community. Claimant is not able to tell people where he lives or what his phone number is, so both parents are concerned about him getting lost in the community. Although he receives an allowance, he is not able to use money. If he wants to buy something he does not know how to determine whether he has enough money. One day, the bus service to and from school was canceled due to snow but claimant did not know this so he waited outside in the cold for the bus for at least 30 minutes until someone saw him and told him to go back home to find out why the bus had not arrived. Claimant's father testified that one hot day last summer he left claimant in the car with the family dog while he went inside a grocery store. He had left the windows of the car rolled down and when he returned to the car the windows were rolled up and claimant and the dog were suffering from being overheated. This event was frightening for claimant's father because it was clear to him that both claimant and the family dog were suffering, but it appeared that claimant did not realize he needed to take some action to help himself.

9. Gail Von Wald is claimant's special education teacher. She has been his special day class teacher the previous two years and this school year. She testified that claimant is a student who works hard, tries hard, and needs a lot of repetition to learn. Ms. Von Wald testified that, in her opinion, claimant performs similarly to a student with mental retardation, and not a student with a learning disability.

Claimant has an Individualized Education Program (IEP). His IEP documents indicate that he is eligible for special education under the eligibility category "Mental Retardation (MR)" and his IEP team has agreed he should not take the Statewide California Standards Test, rather he should take the California Alternate Performance Assessment (CAPA). Ms. Von Wald explained that the CAPA is typically given to students who have moderate to severe disabilities, such as Down Syndrome or Traumatic Brain Injury.

Ms. Von Wald described claimant's lack of adaptive skills at school. She testified that claimant is often lost at school and does not know where he is supposed to be. He participates on the baseball team because the baseball coach is also the special education adaptive physical education teacher, but often forgets where he needs to go to participate in baseball practice. He is enrolled in his school's workability program, where he can learn work skills by tending the school garden. He does not remember where things are kept in the classroom, even though he



has used the items, such as the garden tools, several times in the past. Ms. Von Wald opined that claimant may be able to learn some job skills but he will need the support of someone who can help him find and hold down a job. She does not think claimant will be able to be employed without ongoing support. She believes he is substantially limited in his ability to learn, self-direct, care for himself, and live independently.

## LEGAL CONCLUSIONS

1. In this case, claimant has the burden of proof to establish by a preponderance of the evidence that he is a person with a “developmental disability” within the meaning of Welfare and Institutions Code section 4512, subdivision (a).

2. There is agreement that claimant is not eligible for regional center services under the categories of mental retardation, cerebral palsy, epilepsy, or autism.

3. Claimant bases his request for eligibility on the so-called “fifth category,” the “condition similar to mental retardation.” This category of eligibility is not specifically defined in the law. This is intentional, so as to allow inclusion for a variety of unspecified conditions and disorders which nevertheless merit access to regional center services. *Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4<sup>th</sup>128. To qualify for eligibility under the “fifth category,” one must show the presence of either a condition similar to mental retardation, or a condition that requires treatment similar to that required for mental retardation.

4. Welfare and Institutions Code section 4512 subsection (a)(1) defines developmental disability:

(a) “Developmental disability” means a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

(1) “Substantial disability” means the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person:

- (1) Self-care.
- (2) Receptive and expressive language.
- (3) Learning.

- (4) Mobility.
- (5) Self-direction.
- (6) Capacity for independent living.
- (7) Economic self-sufficiency.

5. California Code of Regulations, Title 17, section 54000, defines developmental disability:

(a) “Developmental Disability” means a disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals.

(b) The Developmental Disability shall:

- (1) Originate before age eighteen;
- (2) Be likely to continue indefinitely;
- (3) Constitute a substantial disability for the individual as defined in the article.

(c) Developmental Disability shall not include handicapping conditions that are:

- (1) Solely psychiatric disorders where there is impaired intellectual or social functioning which originated as a result of the psychiatric disorder or treatment given for such a disorder. Such psychiatric disorders include psycho-social deprivation and/or psychosis, severe neurosis or personality disorders even where social and intellectual functioning have become seriously impaired as an integral manifestation of the disorder.
- (2) Solely learning disabilities. A learning disability is a condition which manifests as a significant discrepancy between estimated cognitive potential and actual level of educational performance and which is not a result of generalized mental retardation, educational or psycho-social deprivation, psychiatric disorder, or sensory loss.
- (3) Solely physical in nature. These conditions include congenital anomalies or conditions acquired through disease, accident, or faulty development which are not associated with neurological impairment that results in a need for treatment similar to that required for mental retardation.

6. California Code of Regulations, Title 17, section 54001, defines substantial disability:

(a) “Substantial Disability” means:

- (1) A condition which results in major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary planning and coordination of special or generic resources to assist the individual in achieving maximum potential; and
- (2) The existence of significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person’s age:
  - (A) Receptive and expressive language;
  - (B) Learning;
  - (C) Self-care;
  - (D) Mobility;
  - (E) Self-direction;
  - (F) Capacity for independent living;
  - (G) Economic self-sufficiency.

7. Claimant’s disability does not come within any of the exclusions outlined in the regulations. First, there was no evidence presented that claimant has any psychiatric disorders. He has no history of behavior or mental health treatment. Second, the weight of the evidence established that his difficulties do not stem solely from learning disabilities. His teacher, who has worked with him for three years, testified that his needs differ from those of her students with learning disabilities. Third, there was also no evidence that claimant’s handicapping condition was solely physical in nature. Therefore, claimant is not excluded from eligibility for regional center services based on California Code of Regulations, Title 17, section 54000, (c), (1), (2), or (3).

#### *What is Mental Retardation?*

The American Psychiatric Association’s Diagnostic and Statistical Manual, fourth edition, Text Revision, (DSM IV-TR) identifies three criteria for mental retardation. One “essential” criterion and two other criteria. The “essential” criterion is “significantly subaverage general intellectual functioning.” A second criterion is that the subaverage general intellectual functioning must be “accompanied by significant limitation in adaptive functioning in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health and safety.” The third and final criterion is that “the onset must occur before age 18 years.” “Significantly subaverage intellectual functioning” is defined as an IQ of about 70 or below.

It is undisputed that claimant is not a person with mental retardation. The question in this case is whether he suffers from a disabling condition closely related to mental retardation or requires treatment similar to that required for individuals with mental retardation. Claimant's IQ scores vary significantly from 66 to 70, to 71, and up to 94 on one subtest. His full scale IQ on Dr. Westcott's report was 72, but this score is misleading due to the large discrepancy in subscores. Given his challenges in learning, communication, attention, and processing, he is developmentally disabled in that his condition is similar to someone with mental retardation.

8. Dr. Westcott and Dr. Glidden are both experts in identifying developmental disabilities and are both familiar with the Lanterman Act. They disagree as to claimant's eligibility for Lanterman Act services. Dr. Glidden argued claimant is eligible under the fifth category, while Dr. Westcott argued he is not. Because Dr. Westcott's evaluation focused primarily on determining whether claimant was eligible under autism, and because he did not have an opportunity to review all of claimant's records, his testimony is given less weight than that of Dr. Glidden, who reviewed all records, did a more comprehensive assessment of claimant, and obtained information on claimant's school functioning from his teacher. In addition, the testimony from claimant's special education teacher, who knows claimant well, is given great weight.

9. The evidence established that claimant has struggled to learn throughout his life and he is currently seventeen years old, so his condition developed prior to the age of eighteen. Both Dr. Westcott and Dr. Glidden testified that they expect his handicap to continue indefinitely. Therefore, claimant meets the criteria under California Code of Regulations, Title 17, section 54000, subdivision (b).

10. Claimant's disability is "substantial" as defined by California Code of Regulations, Title 17, section 540001, (2). He is limited in three or more areas of major life activity including receptive and expressive language, learning, self-care, self-direction, independent living skills, and economic self-sufficiency (factual findings 6, 7, 8, and 9).

*Significant limitation in adaptive functioning*

11. Claimant's s adaptive functioning is very low. Both Dr. Westcott's Vineland Adaptive Behavior Scales and Dr. Glidden's Adaptive Behavior Assessment System scores reveal that claimant's adaptive functioning is extremely low. This supports the determination that claimant has a "closely related" disabling condition. The Court in *Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4<sup>th</sup> 1119, at p. 1129, stated in part:

...The fifth category condition must be very similar to mental retardation, with many of the same, or close to the same, factors required in classifying a person as mentally retarded. Furthermore, the various additional factors required in designating an individual developmentally disabled and substantially handicapped must apply as well.

*Treatment required for individuals with mental retardation*

12. The parties offered little evidence on the question of what treatment is required for individuals with mental retardation. The DSM IV-TR has some information regarding treatment. In discussing people with mild mental retardation, the DSM IV-TR says:

During their adult years, they usually achieve social and vocational skills adequate for minimum self-support, but may need supervision, guidance, and assistance, especially when under unusual social or economic stress. With appropriate supports, individuals with Mild Mental Retardation can usually live successfully in the community, either independently or in supervised settings. (DSM IV-TR, p. 43).

In discussing people with moderate mental retardation, the DSM IV-TR says:

They profit from vocational training and, with moderate supervision, can attend to their personal care. They can also benefit from training in social and occupational skills...They may learn to travel independently in familiar places...In their adult years, the majority are able to perform unskilled or semiskilled work under supervision.... (DSM IV-TR, p. 43)

The evidence to indicate that claimant requires treatment similar to that required by individuals with mental retardation was provided by the testimony of his teacher, Ms. Von Wald (Factual Finding 9), and his father (Factual Finding 8) and in the recommendations of Dr. Glidden (Factual Finding 7), and in Dr. Westcott's recommendation that claimant's IEP team focus on "practical life skills" (Factual Finding 5).

13. Both cognitive and adaptive functions are relevant to a determination of eligibility under the fifth category. Eligibility under this category requires analysis of the quality of claimant's cognitive and adaptive functioning. The evidence establishes that claimant's limitations in cognitive and adaptive functioning, while not qualifying him for a diagnosis of mental retardation, nevertheless render him similar to a person with mental retardation. The evidence established that the specific nature of his limitations indicates he would benefit from treatment similar to that provided a person with mental retardation, or in the words of the regulation, "interdisciplinary planning and coordination of special or generic services to assist the individual in achieving maximum potential." It is therefore determined that claimant's disability is similar to mental retardation, and requires similar treatment. Claimant is found to be eligible to receive regional center services.

## ORDER

The appeal of claimant, from VMRC's decision denying eligibility, is granted. Claimant is eligible for regional center services.

DATED: December 6, 2010

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ELAINE H. TALLEY  
Administrative Law Judge  
Office of Administrative Hearings

## NOTICE

**This is the final administrative decision in this matter. Each party is bound by this decision. An appeal from the decision must be made to a court of competent jurisdiction within 90 days of receipt of this decision. (Welf.& Inst. Code, section 4712.5, subd.(a).)**